

Senate File 37 - Introduced

SENATE FILE 37

BY WILHELM

A BILL FOR

1 An Act authorizing establishment of certain entities to
2 undertake projects relating to the storage, transportation,
3 transmission, and delivery of natural gas, to establish
4 replacement tax districts, and to use certain replacement
5 tax and property tax revenue to pay revenue bonds, and
6 including effective date provisions.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 28F.1, subsection 1, Code 2015, is
2 amended to read as follows:

3 1. This chapter provides a means for the joint financing
4 by public agencies of works or facilities useful and necessary
5 for the collection, treatment, purification, and disposal
6 in a sanitary manner of liquid and solid waste, sewage, and
7 industrial waste, facilities and works used for the storage,
8 transportation, transmission, and delivery of natural gas,
9 facilities used for the conversion of solid waste to energy,
10 and also electric power facilities constructed within the state
11 of Iowa, except that hydroelectric power facilities may also
12 be located in the waters and on the dams of or on land adjacent
13 to either side of the Mississippi or Missouri river bordering
14 the state of Iowa, water supply systems, swimming pools
15 or golf courses. This chapter applies to the acquisition,
16 construction, reconstruction, ownership, operation, repair,
17 extension, or improvement of such works or facilities, by a
18 separate administrative or legal entity created pursuant to
19 chapter 28E or chapter 389. When the legal entity created
20 under this chapter is comprised solely of cities, counties,
21 and sanitary districts established under chapter 358, or any
22 combination thereof or any combination of the foregoing with
23 other public agencies, the entity shall be both a corporation
24 and a political subdivision with the name under which it was
25 organized. The legal entity may sue and be sued, contract,
26 acquire and hold real and personal property necessary for
27 corporate purposes, adopt a corporate seal and alter the seal
28 at pleasure, and execute all the powers conferred in this
29 chapter.

30 Sec. 2. Section 28F.2, Code 2015, is amended by adding the
31 following new subsection:

32 NEW SUBSECTION. 1A. "*Natural gas distribution agency*" means
33 an entity created pursuant to chapter 28E for the purpose of
34 acquiring, constructing, reconstructing, operating, repairing,
35 extending, or improving natural gas facilities and works used

1 for the storage, transportation, transmission, and delivery of
2 natural gas.

3 Sec. 3. Section 28F.5, unnumbered paragraph 2, Code 2015,
4 is amended to read as follows:

5 Such an entity shall have the power to fix, establish and
6 maintain such rates, tolls, fees, rentals, or other charges
7 and collect the same from the public agencies participating
8 in the agreement or from private agencies or persons for
9 the payment of the services and facilities provided by said
10 project or projects. Such rates, tolls, fees, rentals or other
11 charges shall be so fixed, established and maintained and
12 revised from time to time whenever necessary as will always
13 provide revenues sufficient to pay the cost of maintaining,
14 repairing and operating the project or projects, to pay the
15 principal of and interest on the bonds then outstanding which
16 are payable therefrom as the same become due and payable, to
17 provide adequate and sufficient reserves therefor, to provide
18 for replacements, depreciations and necessary extensions and
19 enlargements and to provide a margin of safety for the making
20 of such payments and providing such reserves. Notwithstanding
21 the foregoing such an entity shall have the further right to
22 pledge to the payment of the bonds issued pursuant to this
23 chapter, in addition to the net revenues of the project or
24 projects pledged therefor, such other moneys that it may have
25 and which are lawfully available therefor, including but not
26 limited to replacement tax revenue received by a natural
27 gas distribution agency under section 28F.5A and designated
28 by resolution of the governing body of the agency for such
29 purposes.

30 Sec. 4. NEW SECTION. 28F.5A Use of replacement taxes —
31 natural gas distribution agencies — district.

32 1. A natural gas distribution agency that is undertaking a
33 project to acquire, construct, reconstruct, operate, repair,
34 extend, or improve natural gas facilities and works used for
35 the storage, transportation, transmission, and delivery of

1 natural gas may by resolution of the agency's governing body
2 authorize the use of certain replacement tax revenue collected
3 under chapter 437A for the payment of bonds issued pursuant to
4 this chapter.

5 2. *a.* A resolution authorizing the use of replacement tax
6 revenue by a natural gas distribution agency shall be adopted
7 by the agency's governing body prior to the issuance of bonds
8 under this chapter. The resolution shall include all of the
9 following:

10 (1) A description of the project.

11 (2) A designation of a replacement tax district.

12 (3) A description of the boundaries of the replacement tax
13 district.

14 (4) A map of the location of the project and the boundaries
15 of the district.

16 (5) The amount of bonds proposed to be issued under this
17 chapter for the project.

18 (6) A list of each natural gas competitive service area
19 under chapter 437A that serves property located in the
20 replacement tax district.

21 *b.* A replacement tax district designated by a natural gas
22 distribution agency shall comprise only property that will be
23 directly served by the project following its completion.

24 *c.* Following adoption, a copy of the resolution and all
25 items required under paragraph "*a*" shall be filed by the natural
26 gas distribution agency's governing body with the director of
27 revenue, the director of the department of management, and with
28 the county auditor of each county in which the replacement tax
29 district is located.

30 3. *a.* For each tax year after the base year, the natural
31 gas distribution agency shall receive from the department of
32 management an amount of replacement tax paid by the agency
33 under chapter 437A in an amount not to exceed the amount
34 determined in paragraph "*b*".

35 *b.* (1) The maximum amount of replacement tax that may be

1 paid to a natural gas distribution agency under this section
2 for a tax year is the total amount of replacement taxes paid
3 by the natural gas distribution agency in the tax year minus
4 the total amount of replacement taxes paid by the natural gas
5 distribution agency in the base year.

6 (2) The total amount of replacement taxes paid by the
7 natural gas distribution agency in the base year is the sum of
8 the following:

9 (a) The amount of replacement tax paid in the base year by
10 the natural gas distribution agency under section 437A.5 that
11 is the result of natural gas delivered to a consumer located in
12 the area that comprises the replacement tax district.

13 (b) The amount of property tax paid in the base year by the
14 natural gas distribution agency as the result of the statewide
15 property tax imposed under section 437A.18 on property located
16 in the area that comprises the replacement tax district.

17 (3) The total amount of replacement taxes paid by the
18 natural gas distribution agency in a tax year is the sum of the
19 following:

20 (a) The amount of replacement tax paid in the tax year by
21 the natural gas distribution agency under section 437A.5 that
22 is the result of natural gas delivered to a consumer located in
23 the area that comprises the replacement tax district.

24 (b) The amount of property tax paid in the tax year by the
25 natural gas distribution agency as the result of the statewide
26 property tax imposed under section 437A.18 on property located
27 in the area that comprises the replacement tax district.

28 (4) For purposes of this section, "*base year*" means the tax
29 year, as defined in section 437A.3, that precedes the year in
30 which the resolution establishing the replacement tax district
31 is filed with the director of the department of management
32 under subsection 2, paragraph "c".

33 4. a. A natural gas distribution agency which has
34 authorized the use of replacement tax revenue shall by December
35 1 certify to the department of management and the county

1 auditor of each county in which the replacement tax district
2 is located the amount of bonds issued under this chapter,
3 including interest on the bonds, that qualify for payment
4 from the replacement tax revenue received under this section.
5 The filing of the certificate shall make it a duty of the
6 department of management and the county auditor to provide
7 for the allocation and payment of replacement tax revenue in
8 each subsequent year without further certification, except as
9 provided in paragraphs "b" and "c", until the amount of the
10 bonds, including the interest on the bonds, is paid. If any
11 bonds are issued that qualify for payment from replacement
12 tax revenue under this section and are in addition to amounts
13 already certified, the agency shall certify the amount of the
14 additional bonds, including the interest on the bonds, on or
15 before December 1 of the year such bonds were issued. Any
16 subsequent certifications under this subsection shall not
17 include amounts previously certified.

18 *b.* If the amount certified in paragraph "a" is reduced by
19 payment from sources other than replacement taxes received
20 under this section, by a refunding or refinancing of the bonds
21 which results in lowered principal and interest on the amount
22 of the bonds, or for any other reason, the agency on or before
23 December 1 of the year the action was taken which resulted in
24 the reduction shall certify the amount of the reduction to the
25 department of management and each appropriate county auditor.

26 *c.* In any year, the department of management shall, upon
27 receipt of a certified request from an agency filed on or
28 before December 1, decrease the amount of replacement tax
29 revenue to be allocated under this section in order to reduce
30 the amount to be allocated to the agency under this section
31 in the next tax year to an amount that is less than the full
32 portion of taxes which could be allocated. Upon receipt of
33 a certificate from an agency, the department of management
34 shall mail a copy of the certificate to each affected taxing
35 district.

1 5. The maximum period of years that a natural gas
2 distribution agency may receive replacement tax revenue under
3 this section shall be forty consecutive tax years following the
4 base year.

5 6. The resolution adopted by the natural gas distribution
6 agency may be amended or repealed. Any amendment to the
7 resolution or any amendment to any of the items required under
8 subsection 2, paragraph "a", shall be filed with the director
9 of the department of management, the director of revenue, and
10 the county auditor of each county in which the replacement tax
11 district is located. If the resolution adopted under this
12 section is amended to include additional property, the base
13 year for such additional property shall be the tax year that
14 precedes the year in which the amendment to the resolution is
15 filed with the director of the department of management.

16 7. A natural gas distribution agency receiving replacement
17 tax revenue under this section shall on or before March 1 of
18 each year file a report with the department of management, the
19 department of revenue, and the county auditor of each county
20 in which the replacement tax district is located. The report
21 shall include all of the following:

22 a. The amount of bonds, including interest on the bonds,
23 issued under this chapter during the most recent tax year that
24 qualify for payment using replacement tax revenues received by
25 the agency under this section.

26 b. The amount of bonds, including interest on the bonds,
27 that remain unpaid at the close of the most recent tax year,
28 and that qualify for payment using replacement tax revenues
29 received by the agency under this section.

30 c. The amount of replacement tax revenue received by the
31 agency under this section and used in the most recent tax year
32 for the payment of bonds issued under this chapter, including
33 interest on the bonds.

34 d. The amount of replacement tax revenue received by the
35 agency under this section in the most recent tax year and

1 deposited by the agency for the future payment of bonds issued
2 under this chapter, including interest on the bonds.

3 *e.* The amount of funds received by the agency and used in
4 the most recent tax year for the payment of bonds issued under
5 this chapter, including interest on the bonds, from sources
6 other than replacement tax revenue received under this section.

7 *f.* The amount of funds received by the agency in the most
8 recent tax year and deposited by the agency for the future
9 payment of bonds issued under this chapter, including interest
10 on the bonds, from sources other than replacement tax revenue
11 received under this section.

12 *g.* All other additional information or documentation
13 relating to an agency's use of replacement tax revenue received
14 under this section deemed relevant by the department of
15 management in consultation with the department of revenue.

16 Sec. 5. Section 437A.8, subsection 1, Code 2015, is amended
17 by adding the following new paragraph:

18 NEW PARAGRAPH. *g.* All information determined by the
19 director to be necessary to implement the allocation and
20 payment of replacement taxes to a natural gas distribution
21 agency that has authorized the use of such revenue pursuant to
22 section 28F.5A.

23 Sec. 6. Section 437A.15, subsection 3, paragraph a,
24 subparagraph (1), Code 2015, is amended to read as follows:

25 (1) All replacement taxes owed by a taxpayer shall be
26 allocated among the local taxing districts in which such
27 taxpayer's property is located in accordance with a general
28 allocation formula determined by the department of management
29 on the basis of general property tax equivalents. General
30 property tax equivalents shall be determined by applying the
31 levy rates reported by each local taxing district to the
32 department of management on or before June 30 following a
33 tax year to the taxable value of taxpayer property allocated
34 to each such local taxing district as adjusted and reported
35 to the department of management in such tax year by the

1 director pursuant to section 437A.19, subsection 2. The
 2 general allocation formula for a tax year shall allocate to
 3 each local taxing district that portion of the replacement
 4 taxes owed by each taxpayer which bears the same ratio as such
 5 taxpayer's general property tax equivalents for each local
 6 taxing district bears to such taxpayer's total general property
 7 tax equivalents for all local taxing districts in Iowa. For
 8 tax years beginning on or after January 1, 2016, the amount of
 9 replacement taxes allocated by the department of management
 10 under this section and paid to local taxing districts located
 11 in whole or in part within a replacement tax district created
 12 under section 28F.5A shall be adjusted to take into account the
 13 use of replacement taxes under section 28F.5A by a natural gas
 14 distribution agency.

15 Sec. 7. Section 437A.23, Code 2015, is amended to read as
 16 follows:

17 **437A.23 Deposit of tax proceeds.**

18 ~~All~~ Following any required allocation and payment of
 19 statewide property tax revenues to natural gas distribution
 20 agencies pursuant to section 28F.5A, revenues received from
 21 imposition of the statewide property tax shall be deposited in
 22 the general fund of the state. Fifty percent of the revenues
 23 shall be available, as appropriated by the general assembly, to
 24 the department of management for salaries, support, services,
 25 and equipment to administer the replacement tax. The balance
 26 of the revenues shall be available, as appropriated by the
 27 general assembly, to the department of revenue for salaries,
 28 support, services, and equipment to administer and enforce the
 29 replacement tax and the statewide property tax.

30 Sec. 8. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
 31 immediate importance, takes effect upon enactment.

32 EXPLANATION

33 The inclusion of this explanation does not constitute agreement with
 34 the explanation's substance by the members of the general assembly.

35 Code chapter 28F provides a means for the joint financing

1 by public agencies of works or facilities for the collection,
2 treatment, purification, and disposal in a sanitary manner
3 of liquid and solid waste, sewage, and industrial waste,
4 facilities used for the conversion of solid waste to energy,
5 and also electric power facilities constructed within the
6 state of Iowa. Code chapter 28F applies to the acquisition,
7 construction, reconstruction, ownership, operation, repair,
8 extension, or improvement of such works or facilities by a
9 separate administrative or legal entity created pursuant to
10 Code chapter 28E or Code chapter 389.

11 This bill adds facilities and works for the storage,
12 transportation, transmission, and delivery of natural gas to
13 the types of works and facilities that may be jointly financed
14 by public agencies under Code chapter 28F.

15 Current Code chapter 28F authorizes joint agencies to
16 issue revenue bonds to finance such works or facilities that
17 are payable from the net revenues of the project and other
18 revenues that the entity may have and which are lawfully
19 available for the payment of revenue bonds. New Code section
20 28F.5A authorizes a natural gas distribution agency that is
21 undertaking a project to acquire, construct, reconstruct,
22 operate, repair, extend, or improve natural gas facilities and
23 works used for the storage, transportation, transmission, and
24 delivery of natural gas to authorize, by resolution, the use of
25 certain replacement tax revenue collected under Code chapter
26 437A for the payment of bonds issued under Code chapter 28F.

27 Under the bill, for each tax year after a designated base
28 year, the natural gas distribution agency that has adopted the
29 required resolution shall receive an amount of replacement
30 tax paid by the agency under Code chapter 437A in an amount
31 not to exceed the maximum amount allowed in the bill. The
32 maximum amount of replacement tax that may be paid to a natural
33 gas distribution agency for a tax year is the total amount
34 of statewide property taxes under Code section 437A.18 and
35 replacement taxes paid by the natural gas distribution agency

1 in the tax year minus the total amount of statewide property
2 taxes under Code section 437A.18 and replacement taxes paid by
3 the natural gas distribution agency in the base year.

4 The bill requires the natural gas distribution agency to
5 certify to the department of management and the county auditor
6 of each county in which the replacement tax district is located
7 the amount of bonds issued under this Code chapter, including
8 interest on the bonds, that qualify for payment from the
9 replacement tax revenue received under this Code section. The
10 bill also requires a natural gas distribution agency receiving
11 replacement tax revenue to, on or before March 1 of each year,
12 file a report containing information specified in the bill with
13 the department of management, the department of revenue, and
14 the county auditor of each county in which the replacement tax
15 district is located.

16 The maximum period of years that a natural gas distribution
17 agency may receive replacement tax revenue is 40 consecutive
18 tax years following the base year. The bill allows the
19 resolution adopted by the natural gas distribution agency to
20 be amended or repealed.

21 The bill makes corresponding changes to Code chapter 437A
22 to provide for the allocation and payment of replacement tax
23 revenues to natural gas distribution agencies.

24 The bill takes effect upon enactment.